

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

FRANKLIN LANE,)
vs.)
Plaintiff,)
SHERIFF DANNY RODDEN, et al.,)
Defendants.) 4:10-cv-094-TWP-WGH

**Entry Denying Motion to Proceed *in forma pauperis*
and Directing Payment of Filing Fee**

I.

Franklin Lane alleges that his Eighth Amendment rights were violated when he was forced to inhale paint fumes while his cell and the surrounding areas in the Clark County Jail were being repainted. Lane seeks to proceed *in forma pauperis*.

Lane's request to proceed *in forma pauperis* (dkt 2) is **denied** because he is not eligible for that status in the circumstances of this case.

II.

To elaborate on the foregoing ruling, it is noted that the plaintiff is a prisoner and has, while a prisoner, filed at least three suits or appeals which have been dismissed as frivolous, malicious, or for failure to state a claim. He was obligated to inform the court of this fact, see *Ammons v. Gerlinger*, 547 F.3d 724, 725 (7th Cir. 2008), and failed to do so, but in any event is rendered ineligible by 28 U.S.C. § 1915(g) to proceed *in forma pauperis*. It can be added, here, that the narrow exception to the barrier created by § 1915(g)—where a prisoner alleges that he “is under imminent danger of serious physical injury”—does not apply to the claims or allegations in the complaint.

In *Evans v. Illinois Department of Corrections*, 150 F.3d 810 (7th Cir. 1998), it was noted that a prisoner-litigant in these circumstances is entitled to know the cases the court relies on when making the three-strikes determination. For Lane's reference, the cases on which the court relies in finding three or more “strikes” consist of the following:

Lane v. Rodden, et al., 4:09-cv-61-SEB-WGH (S.D. Ind. May 15, 2009)(dismissing action pursuant to 28 U.S.C. § 1915A(b)).

Lane v. Jeffersonville Evening News, 4:09-cv-62-DFH-WGH (S.D. Ind. June 19, 2009)(dismissing action pursuant to 28 U.S.C. § 1915A(b)).

Lane v. Rodden, et al., 4:09-cv-63-DFH-WGH (S.D. Ind. June 22, 2009)(dismissing action pursuant to § 1915A(b)).

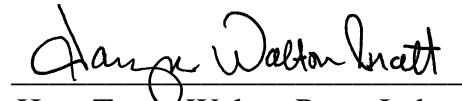
Lane v. Rodden, et al., 4:09-cv-67-SEB-WGH (S.D. Ind. June 1, 2009) (dismissing action pursuant to 28 U.S.C. § 1915A(b)).

III.

Lane shall have ***through September 15, 2010***, in which to pay the \$350.00 filing fee for this civil action. Failure to do so will result in dismissal of this action.

IT IS SO ORDERED.

Date: 08/27/2010



Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

Distribution:

FRANKLIN LANE
Clark County Jail
501 E. Court Avenue
Jeffersonville, IN 47130